UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/096,560	06/12/98	BENNETT R	A00424(AMT-9

EXAMINER	
CUMMING,W	
ART UNIT	PAPER NUMBER
2684	12

WM02/0518
LAW OFFICE OF DALE B. HALLING
128 S. TEJON
SUITE 202
COLORADO SPRINGS CO 80906-1025

DATE MAILED:
05/18/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No.	Applicant(s)	
	09/096,560	BENNETT ET AL.	
	Examiner	Art Unit	
	WILLIAM D. CUMMING	2684	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 February 2001* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-19* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-19* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) ☒ Notice of References Cited (PTO-892)
16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
18) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
19) ☐ Notice of Informal Patent Application (PTO-152)
20) ☐ Other:

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 15, 2001 has been entered.

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

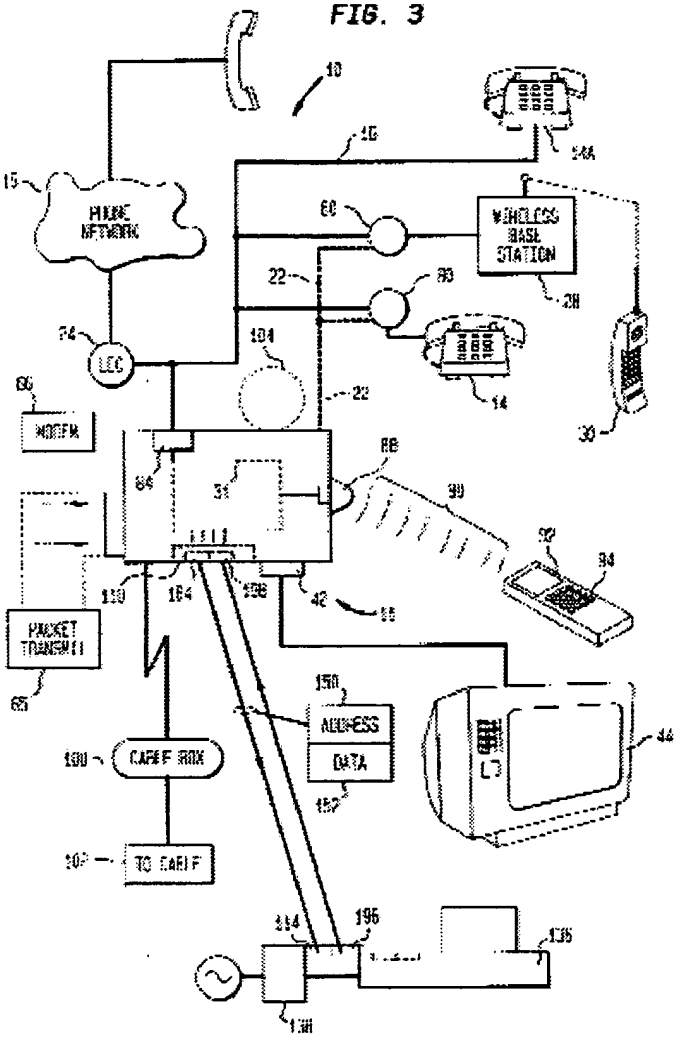
1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Sizer, II, et al** in view of **Gorman.**

Sizer, II, et al disclose all subject matter claimed, except for a wireless local loop transceiver capable of establishing a wireless local loop point to point link to a geographically separate, non-mobile base station which is attached to the PSTN.

FIG. 3



Gorman teaches the use of a wireless local loop transceiver capable of establishing a wireless local loop point to point link to a geographically separate, non-mobile base station which is attached to the PSTN (figure 1, #30, 32, 34, 36, *"Alternatively, the local loop may also include a wireless local loop (currently being deployed primarily in developing countries without existing communication infrastructure facilities and now available in the United States). The wireless local*

loop 30 provides communication from the central office 24 to the customer premises 32 without requiring new cable plant between the central office 24 and the customer premises 32. A wireless local loop 30 may use a transmitter 34 at the central office 24, transmitting microwave radio frequencies to a radio frequency receiver using an antenna 36 at the customer premises 32. The wireless local loop 30 can implement any of the ISDN, PRI, DSL, or high-capacity 24 channel T1 lines described above. In addition, fixed-satellite wireless communication systems allowing communication service to be directly received at the subscriber location from earth orbiting satellites are also available from companies such as Hughes Network Systems and Motorola Inc. Such systems are currently being deployed in developing countries.") in a home gateway system for the purpose of providing a local loop in places which does not have an existing cable or telephone communication infrastructure facilities.

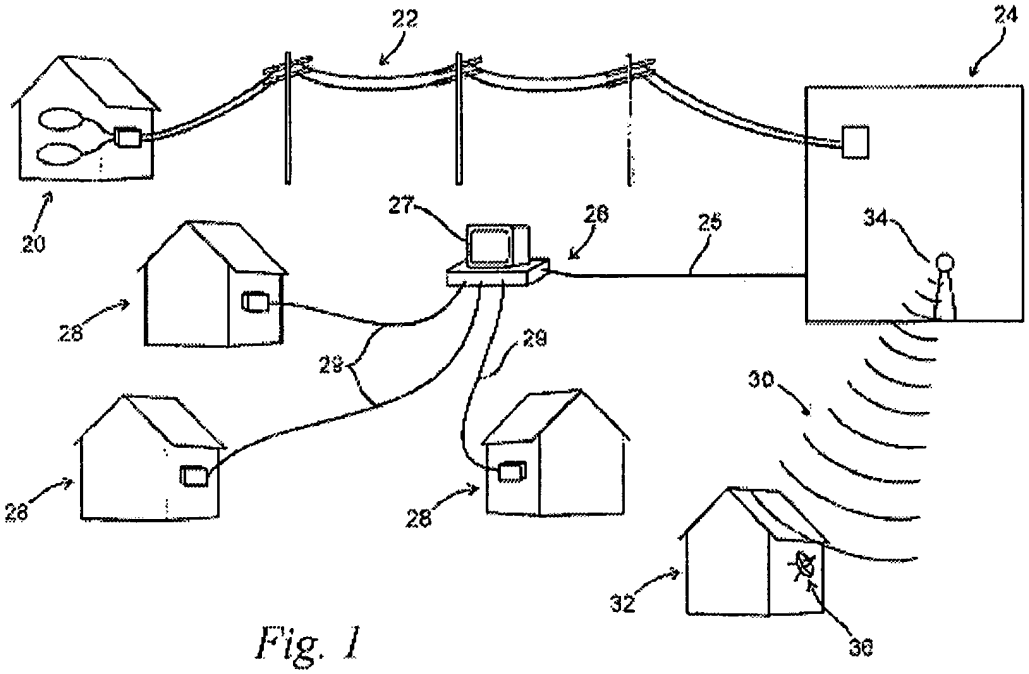


Fig. 1

Hence, it would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to incorporate the use of a wireless local loop transceiver capable of establishing a wireless local loop point to point link to a geographically separate, non-mobile base station which is attached to the PSTN, as taught by **Gorman**, in the home gateway system of **Sizer, et al** in order to provide a local loop in places which does not have an existing cable or telephone communication infrastructure facilities.

Regarding smart card interface, voice processing system, speaker verification module and speech recognition, these are old and well known features of an alarm or security system and the Examiner also takes Official Notice as such in the Office action dated November 22, 2000.

It would have been very obvious to incorporate the old and well known features like the smart card interface, voice processing system, speaker verification module and speech recognition in the prior art security system in order to the user to easily operate, like through verbal commands, the home security system.

. *"In considering the disclosure of a reference, it is proper to take into account not only specific teachings of the reference but also the inferences which one skilled in the art would reasonably be expected to draw therefrom."* In re Preda, 401 F.2d 825, 826, 159 USPQ 342, 344 (CCPA 1968). The rationale supporting an obviousness rejection may be based on common knowledge in the art or *"well-known"* prior art. The examiner may take official notice of facts outside of the record which are capable of instant and unquestionable demonstration as being *"well- known"* in the art. In re Ahlert, 424 F.2d 1088, 1091, 165 USPQ 418,420 (CCPA 1970). If justified, the examiner should not be obliged to spend time to produce documentary proof. If the knowledge is of such notorious character that official notice can be taken, it is sufficient so to state. In re Malcolm, 129 F.2d 529, 54 USPQ 235 (CCPA 1942). If the applicants traverse such an assertion the examiner should cite a reference in support of his or her position. ***If applicant does not seasonably traverse the well known statement during examination, then the object of the well known statement is taken to be admitted prior art. In re Chevenard, 139 F.2d 71, 60 USPQ 239 (CCPA 1943). A seasonable challenge constitutes a demand for evidence***

made as soon as practicable during prosecution. Applicants have not seasonable challenge or traverse the well known statement during examinarion. If something is prior art, it is taken as being available as prior art against the claims. Admitted prior art can be used in obviousness rejections. In re Nomiya, 509 F.2d 566, 184 USPQ 607, 610 (CCPA 1975).

It has been held that the recitation that an element is *"capable of"* performing a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchison*, 69 USPQ 138.

Double Patenting

6. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

7. A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

8. Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

9. Claims 1-19 are provisionally rejected under the judicially created doctrine of double patenting over claims of copending Application No. 09/061,833. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter.

Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

Response to Arguments

10. Applicants' arguments with respect to claims 1-19 have been considered but are moot in view of the new grounds of rejection.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Teich, et al disclose a system and method for automatically updating a clock using caller id information.

Japanese patent discloses a central heating system combined with home automation and security system.

Bossemyer, et al show a home gateway system and method.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **WILLIAM D. CUMMING** whose telephone number is 703-305-4394. The examiner can normally be reached on Monday through Thursday, 9:30 to 5:30, EDT.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **DAINIEL HUNTER** can be reached on 703-308-6732. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-6306 for regular communications and 703-308-6296 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.

WILLIAM CUMMING
PRIMARY EXAMINER
GROUP 2600

wdc
May 15, 2001

UNITED STATES
PATENT AND
TRADEMARK OFFICE

William Cumming
Primary Patent Examiner
Washington, DC 20231
(703) 305-4394 (703) 308 6306 Fax
william.cumming@uspto.gov